



**National Association  
for the Self-Employed**

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Testimony of

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On behalf of

The National Association for the Self-Employed

**"Regulatory Burdens on Small Firms: What Rules Need Reforms?"**

House Committee on Small Business  
Subcommittee on Regulations, Health Care and Trade

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I would like to begin by thanking Chairman Gonzalez, Ranking Member Westmoreland and Members of the Subcommittee for the opportunity to speak to you today on an issue that is important to my business as well as to all the home-based entrepreneurs represented by the National Association for the Self-Employed.

My name is Scott Scribner and I've been a member of the NASE for a number of years. Along with my wife Barbara, I own a real estate sales business in Plano, Texas. We're involved mostly in residential sales and investments in the North Texas area. Before that I was a commercial banker and President of a small East Texas bank. Our business currently has one full time employee but we hope to expand our team in the near future. We've operated the business primarily from home thus, I have been contending with the home office deduction for 14 years.

Earlier this year the NASE nominated the home office deduction for the SBA Office of Advocacy's Regulatory Review and Reform (r3) initiative. As you may be aware, after review of over 80 nominated regulations the SBA Office of Advocacy selected the home office deduction as one of their Top 10 Rules for Review and Reform in 2008. I am pleased to see our nation's legislators and the Small Business Administration taking an interest in making this deduction simpler for home-based businesses.

Due to the complexity and time burden of calculating the home office deduction, I quickly turned to an accountant for assistance. However, a majority of my fellow self-employed business owners prepare their taxes without professional assistance and thus, must navigate the home office deduction on their own. Key hurdles faced by the self-employed in taking this deduction are the strict qualifying requirements, the complexity of the form and instructions, and the underlying fear that employing this tax benefit will flag them for review or audit by the IRS.

Micro-business owners face stringent and confusing requirements to qualify for the home office deduction. IRS publication 587, *Business Use of Your Home*, devotes five pages in an attempt to explain and clarify the key requirement for taking the deduction: exclusive and regular use of your home as your principal place of business. While the IRS does its best to make clear what they mean by exclusive and regular, many assumptions are left to the business owner. In addition, the overall qualifying provisions are a bit strict. If I had a storefront or leased office space, there are no penalties for putting personal use items like a television in my place of business or having a family member stop by for a visit and unexpectedly look something up on my computer. Yet because I work from home, the above circumstances could disqualify me from utilizing the home office deduction.

Once a small business owner qualifies for the deduction, he or she then faces the complexity of the IRS form. A self-employed business owner such as I must differentiate between direct and indirect expenses and also between deductible mortgage interest and excess mortgage interest. Some of the expenses are deductible even if the business has a loss and some aren't. Some casualty losses go on line 9 and some go on line 27. I am not a tax expert and confusing questions such as these is what led me to seek professional help.

In addition, the words "see instructions" appear on this one page tax form 14 different times. Those instructions say the form will take an average of 1 hour and 15 minutes to complete. I can tell you from personal experience it takes much longer than that to prepare IRS Form 8829. I believe that the time it takes over the course of the year to manage and maintain the paperwork necessary to prepare the required calculations for the home office deduction has been neglected in the IRS's estimation. This complexity and time burden of the home office deduction is a large deterrent to utilization. Many small businesses who qualify for this important deduction do not take it because it is too onerous to fill out the form.

The lack of clarity present in the requirements to take the deduction and the preparation of the form enhances the concern of the self-employed owner that he or she may do something incorrectly. There is large-scale concern of the subjective nature of this deduction. In a May 2008 survey conducted by the NASE, only 27% of members working from a home office took the home office deduction. The fear of being “red-flagged” by the IRS for review and/or audit was the top reason why qualifying business owners did not utilize the home office deduction.

The question remains: what can we do to improve this regulation for small business? The answer is simple: a standard home office deduction option. Once a self-employed business owner meets the qualifications for the deduction, he or she can choose to itemize and fill out the form in the manner currently advised by the IRS or, the business owner may choose to elect the standard deduction option which provides for a flat-rate deduction. The NASE recommends a standard deduction within the range of \$1,500 to \$2,500 and indexed annually for inflation. Providing a standard deduction could save many home-based entrepreneurs time and money. In addition, it alleviates confusion surrounding the home office deduction and thus, the concern that the business will be targeted by the IRS.

At present, the Home Office Deduction Simplification Act (H.R. 6214) has been introduced by Rep. John McHugh and would provide a \$1,500 standard deduction option for home-based businesses. In addition, House Small Business Committee Chairwoman, Nydia Velazquez, is preparing legislation that would also include a standard home office deduction. I encourage Congress to support these pieces of legislation and help the 52% of small businesses who work from their home.

Please remember that complex and time-consuming tax regulations only make it more difficult for the self-employed community to comply with the tax code. This burden imposed on micro-business is disproportionate to that of larger businesses because smaller firms do not have

accounting and legal departments at their disposal to decipher and comply with the maze of tax regulation. Thus, as a member of the NASE and a home-based entrepreneur, I encourage you to help streamline burdensome regulations like the home office deduction for all of our nation's self-employed.